

April 19, 2017

VIA E-MAIL [FAJARDO.JUAN@EPA.GOV]

Juan Fajardo, Esq.
Office of Regional Counsel
United States Environmental Protection Agency
Region II
290 Broadway, 17th Floor
New York, NY 10007-1866

Re: Lower Passaic River Study Area Operable Unit 2 -- Cash-Out Settlement
for Honeywell International Inc.

Dear Mr. Fajardo:

This letter follows up on my correspondence of January 30, 2017 to Sarah Flanagan with respect to a cash-out settlement for Honeywell International Inc. (“Honeywell”) for Operable Unit 2 (“OU 2”) of the Lower Passaic River Study Area (“LPRSA”). That correspondence, and its attachments, explained why Honeywell lacked a connection to OU 2 sufficient to render it a liable party, and offered to enter into discussions with United States Environmental Protection Agency (“EPA”) regarding a cash-out settlement for OU 2. To date, EPA has not responded to that correspondence.

However, on March 30, 2017 EPA corresponded to all of the parties that received General Notice Letters for the LPRSA indicating that 20 parties would be eligible for a cash-out settlement. The March 30, 2017 correspondence did not explain the basis for the selection of these parties, stating only that these parties “are not associated with a disposal or release of any of the contaminants of concern (“COCs”) for OU 2, as identified in the OU 2 ROD.”

Honeywell has conducted a preliminary evaluation of the 20 parties that EPA has identified as eligible for a cash-out settlement, and based on our initial analysis we conclude that a number of the parties on this list are similarly situated to Honeywell with respect to their connection to OU 2. As we explained in our correspondence of January 30, 2017, Honeywell should be eligible for a cash-out settlement because the sole Honeywell facility identified by EPA with any alleged connection to OU 2, the Dundee Warehouse: (i) is associated with an upland remediation under the Industrial Site

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Recovery Act/ Environmental Cleanup and Responsibility Act (“ISRA/ECRA”), but is not associated with a specific discharge of a hazardous substance to the river or to OU 2; and (ii) the upland contaminants found at the Dundee Warehouse are consistent with historic fill and/or background conditions.

While the criteria EPA used to select the cash-out parties are not clear, based on our initial analysis, in several respects one or more of the parties designated for a cash-out settlement have a connection to the river as great, or greater, than the connection of the Dundee Warehouse:

- At least one of the sites has a sewer outfall that connects directly to the river; the Dundee Warehouse does not.
- Several sites have evidence of known discharges to the Passaic River; the Dundee Warehouse does not. Moreover, several sites appear to have more significant environmental impacts than does the Dundee Warehouse, such as heavy metals and total petroleum hydrocarbons in soil, sediment and/or groundwater.
- Several sites are similar to the Dundee Warehouse in that they are reported to have been built on historic fill, and at least some portion of the reported environmental impacts are attributed to the presence of this fill. Also, like the Dundee Warehouse, several sites are identified as New Jersey ISRA/ECRA or New Jersey Spill Act sites, and have been investigated and remediated under these programs.

Accordingly, based on the apparent criteria used by EPA in selecting parties for cash-out settlements, Honeywell should be offered an opportunity for a settlements on the same terms as those extended to the 20 parties to whom EPA did offer a cash-out settlement. The Dundee Warehouse is not associated with any specific discharges of hazardous substances to the Passaic River or to OU 2, and the Dundee Warehouse upland contamination is consistent with historic fill and background conditions. These points were documented extensively in our correspondence of January 30, 2017. That letter, in light of the characteristics of the parties to whom EPA has offered settlement, provides a persuasive basis for EPA to also offer a cash-out settlement to Honeywell.

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Thank you for your consideration, and we look forward to discussing the terms of a cash-out settlement for Honeywell for OU 2 in further detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremy Karpatkin". The signature is fluid and cursive, with the first name "Jeremy" and last name "Karpatkin" clearly distinguishable.

Jeremy C. Karpatkin